

## **STATE WATER CONTROL BOARD ENFORCEMENT ACTION**

### **A SPECIAL ORDER BY CONSENT ISSUED TO**

**Peoples Save Stations, Inc.  
Station Numbers 6, 9, 12, & 15**

#### **SECTION A: Purpose**

This is a Special Order by consent issued under the authority of §§ 62.1-44.15 (8a) and (8d) of the Code of Virginia issued by the State Water Control Board between the Board and Peoples Save Stations, Inc. (the Company), to resolve certain violations of the State Water Control Law and regulations, resulting from failure to meet notification requirements, failure to upgrade, and failure to replace or close existing UST systems at the Company locations in Collinsville (Peoples #6), Ridgeway (Peoples #9), Bassett (Shively's Save Station or #12), and Martinsville (Peoples #15), Virginia.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. “Board” means the State Water Control Board, a permanent citizens’ board of the Commonwealth of Virginia as described in Code §§ 10.1-1184 and 62.1-44.7.
2. “Code” means the Code of Virginia (1950), as amended.
3. “The Company” means Peoples Save Stations, Inc., a company incorporated in the State of Virginia, with Officers/Directors David Prillaman as President/Treasurer, Curtis Prillaman as Vice President, and Jimmie L. Wright as Secretary.
4. “Department” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Code § 10.1-1183.

5. "Director" means the Director of the Department of Environmental Quality.
6. "UST systems" means the individual retail gasoline stations with underground storage tanks, connected underground piping, underground ancillary equipment, and containment system owned by Peoples Save Stations, Incorporated, 174 Dye Plant Road, Martinsville, Virginia and are further identified as UST ID # : 2-018131 (Shively's or #12), 2-018133 (#15), 2-018128 (#6), and 2-004196 (#9).
7. "Order" means this document, also known as a Consent Special Order.
8. "Regional Office" means the West Central Regional Office of the Department.
9. "The Regulation" means 9 VAC 25-580-60 (Upgrading of Existing UST Systems), which requires that all UST's meet final, specific performance requirements for leak detection, spill and overfill protection, and corrosion protection by December 22, 1998.
10. "Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.
11. "Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected to it) that is used to contain an accumulation of regulated substances.

## **SECTION C: Findings of Fact and Conclusions of Law**

### **2-018131 Shively's Save Station #12**

1. Originally there were 4 UST's registered with the Department for store #12. Of those 4 there were three gasoline tanks (8000, 6000, and 3000 gallon each) and a 2000 gallon kerosene tank. An unregistered 4000 gallon kerosene tank was installed in 1990. Of those 5 tanks, 3 were in use until July 15, 2002, and 2 (3000 gallon gasoline and the 2000 gallon kerosene) have been out of service since May 1990 and improperly deactivated.
2. A Department letter was mailed December 29, 2000 requesting the resolution of the following compliance issues for the active UST's: **amendment of registration (missing information: piping type, spill and overfill devices, and release detection), no tank and piping corrosion protection, no tank and piping release detection.** A separate Department letter was also mailed (12/29/00) asking for UST

**closure documentation that a proper closure of the gasoline and kerosene piping (4 lines) and tanks (2) was performed.** The second letter was sent regarding the piping for the active 6000 gallon and the 8000 gallon gasoline tanks and also for the inactive 3000 gallon gasoline and 2000 gallon kerosene tanks. Additionally the letter requested closure documentation for the 3000 gallon gasoline and 2000 gallon kerosene tanks. The Department on July 29, 2002, received paperwork from the Company that indicates that 2 gasoline tanks (8000 and 6000 gallon) and 1 kerosene tank (4000 gallon) had been removed from the ground July 15, 2002.

3. Work recently performed at the station leaves noncompliance issues that can be resolved by providing the following: Soil sample data for the kerosene dispenser (9 VAC 25-580-330); TPH-GRO (gasoline) analytical results for sample #008 (9 VAC 25-580-330); Original copies of disposal manifests (9 VAC 25-580-330); Original copies of the sampling chain of custody forms for each sample (9 VAC 25-580-330); and closure documentation for the 3000 gallon gasoline and the 2000 gallon kerosene tanks that were closed in May 1990 (9 VAC 25-580-320 and 330).

2-018133 Peoples Save Station #1

4. Department registration forms listed an 8000 gallon diesel fuel UST at store #15.
5. A Department letter was mailed December 29, 2000 requesting the resolution of the following compliance issues: **amendment of registration for a) the facility address had changed, b) the piping type was unknown, c) release detection was not indicated. Also, the tank was not equipped with spill prevention, overfill prevention, the tank and piping did not have corrosion protection, and there was no evidence of tank release detection.** No response was received from the Company until the Department received an incomplete submittal regarding the tank June 17, 2002, stating the tank was closed.
6. Work recently performed at the station leaves noncompliance issues that can be resolved by providing the following: Original copies of disposal manifests (9 VAC 25-580-330); Original copies of the sampling chain of custody forms for each sample

(9 VAC 25-580-330); A signed and complete Notification Form VA 7530-1 (9 VAC 25-580-70).

2-018128 Peoples Save Station #6

7. There are currently 4 UST's at store #6. One 4,000 gallon kerosene tank was removed from the ground March 6, 1999. The four in use tanks consist of three gasoline tanks (10000, 4000, and 6000 gallon each) and one 4000 gallon diesel fuel tank.
8. A Department Warning Letter (WL) was mailed March 26, 2001 requesting a schedule to bring the UST system into full compliance with the regulatory **cathodic protection testing and tank closure requirements**.
9. Work recently performed at the station leaves noncompliance issues that can be resolved by performing and providing results for a cathodic protection test on the in use tanks (9 VAC 25-580-90.1 and 90.2.a. &b).

2-004196 Peoples Save Station #9

10. There are 5 UST's at store #9. In use are three gasoline tanks (8000, 4000, and 6000 gallon each), a 4000 gallon kerosene tank, and a diesel fuel tank. Although the diesel fuel tank was reported on the UST Notification Form 7530-1 the owner only verbally states it has an 8000 gallon capacity and has not officially provided the tank capacity on the form that is required for compliance. Mr. David Prillaman (Peoples Save Stations, Inc.) was contacted March 19, 2001 regarding the compliance issue: **proper piping closure documentation** for the gasoline tanks. Mr. Prillaman indicated that he was working on the remaining compliance issues. No response was received from the Company until the Department received an incomplete submittal July 29, 2002.
11. Work recently performed at the station leaves noncompliance issues that can be resolved by providing the following: The depths for all of the soil samples that were taken (9 VAC 25-580-330); Original copies of the sampling chain of custody forms for each sample (9 VAC 25-580-330); Amend Notification Form VA 7530-1 for the diesel fuel tank to reflect total capacity (9 VAC 25-580-70).

12. On January 29, 2002, Department staff, contacted Mr. David Prillaman regarding the compliance issues for each of the stations. Mr. Prillaman indicated that he had hired a contractor for People's #9. Department staff advised Mr. Prillaman that in addition to station #9 that Shively's Save #12, Peoples #15, and Peoples #6 appeared to still be out of compliance. Mr. Prillaman indicated that he would have his contractor contact the Department. No immediate contact was made by the contractor with the Department. Full compliance has not been obtained by the Company at any of the stations.
13. The Company is an UST owner and/or operator within the meaning of Code § 62.1-44.34:8.
14. The Regulation requires that all UST's meet final, specific performance requirements for leak detection, spill and overfill protection, and corrosion protection by December 22, 1998.
15. The Company failed to meet the December 22, 1998 deadline for UST compliance at the stations as required by the Regulation. The failure was documented by a Department inspection of each station and in Letters of Noncompliance for Station #9 and #15 issued by the Department July 25, 1997 and July 29, 1997. Additionally, Warning Letters were issued by the Department for Stations #12, #15, #6, and #9 on March 26, 2001. The Department also issued Notice of Violation No. 01-06-WCRO-004 for Station #12, NOV No. 01-06-WCRO-005 for Station #15, NOV No. 01-06-WCRO-003 for Station #6, and NOV No. 01-06-WCRO-001 for Station #9 on June 5, 2001.

#### **SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of its authority in Code §§ 62.1-44.15 (8a) and (8d), orders the Company and the Company agrees:

1. To remedy the violations described above and bring the UST systems into compliance with the Regulations, the Company shall perform the actions described in Appendix A to the Order.
2. The Company shall pay a civil charge of \$9,241 within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and sent to:  

Receipts Control  
Department of Environmental Quality  
Post Office Box 10150  
Richmond, Virginia 23240

The payment check must include the Federal Identification Number and a notation that it is for payment of a civil charge pursuant to this Order.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of the Company, for good cause shown by the Company, or on its own motion after notice and opportunity to be heard.
2. This Order addresses only those violations specifically identified herein. This Order shall not preclude the Board or Director from taking any action authorized by law, including, but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the UST systems as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, the Company admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. The Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. The Company declares it has received fair and due process under the Virginia Administrative Process Act, Code §§ 2.2-4000 *et seq.*, and the State Water Control Law, and it waives the right to any hearing or other administrative

proceeding authorized or required by law or regulation and to judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by the Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall act to waive or bar the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. The Company shall be responsible for failing to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. The Company must show that such circumstances resulting in noncompliance were beyond its control and not due to a lack of good faith or diligence on its part. The Company shall notify the Director of the Regional Office in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Director of the Regional Office in writing within 10 days of learning of any condition listed above, which the Company intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees, and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and the Company. Notwithstanding the foregoing, the Company agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
- a. The Company petitions the Regional Director to terminate the Order after it has completed all requirements of the Order. The Director's determination that the Company has satisfied all the requirements of the Order is a "case decision" within the meaning of the Virginia Administrative Process Act; or
  - b. The Director or the Board may terminate this Order in his or its whole discretion upon 30 days' written notice to the Company.

Termination of this Order, or of any obligation imposed in this Order, shall not operate to relieve the Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, the Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Robert G. Burnley, Director  
Department of Environmental Quality

The Company voluntarily agrees to the issuance of this Order.

Date: \_\_\_\_\_ By: \_\_\_\_\_

Title: \_\_\_\_\_

Commonwealth of Virginia  
City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_, who is  
(name)



Peoples Save Stations

Special Order

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\_\_\_\_\_ of the Company, on behalf of the Corporation.  
(title)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

**Appendix A**  
**Peoples Save Stations**

4245 Virginia Avenue, Collinsville (Peoples #6), 5780 Greensboro Road,  
Ridgeway (Peoples #9), 2538 Fairystone Park Highway, Bassett (Shively's Save  
Station or #12), and 174 Dye Plant Road, Martinsville (Peoples #15)

The Company shall:

1. By **August 29, 2003**, ensure that it has submitted accurate, up to date Financial Responsibility documentation for the listed UST systems in accordance with 9 VAC 25-590-10 *et seq.*
2. Provide the following for Peoples #9 (2-004196) by **August 29, 2003**.
  - The depths for all of the soil samples that were taken.
  - Original copies of the sampling chain of custody forms for each sample.
  - Amend Notification Form VA 7530-1 for the diesel fuel tank to reflect total capacity.
3. Provide the following for Peoples #12 (2-018131) by **August 29, 2003**.
  - Soil sample data for the kerosene dispenser.
  - TPH-GRO (gasoline) analytical results for sample #008.
  - Original copies of disposal manifests.
  - Original copies of the sampling chain of custody forms for each sample.
  - Closure documentation for the 3000 gallon gasoline and the 2000 gallon kerosene tanks that were closed in May 1990.
4. Perform and provide results for a cathodic protection test on the in use tanks for Peoples #6 (2-018128) by **August 29, 2003**.
5. Provide the following for Peoples #15 (2-018133) by **August 29, 2003**.
  - Original copies of disposal manifests.
  - Original copies of the sampling chain of custody forms for each sample.
  - A signed and complete Notification Form VA 7530-1.
6. All submittals under Appendix A of this Order shall be sent to:

Steven Wright, Enforcement  
Virginia Department of Environmental Quality  
West Central Regional Office  
3019 Peters Creek Road  
Roanoke, Virginia 24019.